

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

1:15-cv-3904-WSD

**JAMES A. TORCHIA, CREDIT
NATION CAPITAL, LLC, CREDIT
NATION ACCEPTANCE, LLC,
CREDIT NATION AUTO SALES,
LLC, AMERICAN MOTOR
CREDIT, LLC, and SPAGHETTI
JUNCTION, LLC,**

Defendants.

OPINION AND ORDER

This matter is before the Court on Defendant James A. Torchia's Motion to Stay Proceedings [272]. Also before the Court is the Securities and Exchange Commission's ("Commission") email of December 13, 2016, detailing a dispute with regards to their attempted depositions of Mr. Torchia.

I. BACKGROUND

On September 30, 2016, the Commission filed a notice of deposition for Mr. Torchia. The deposition was scheduled for November 22, 2016. On November 10, 2016, the Court issued an Order [266] granting James M. Johnson,

Sherri L. Buda and Knight Johnson, LLC's Motion to Withdraw as Counsel of Record for Mr. Torchia. On November 15, 2016, Mr. Torchia informed the Commission that he was not aware of his deposition scheduled for November 22, 2016, and that he could not be available that day. The deposition was rescheduled for December 8, 2016.

On November 23, 2016, Mr. Torchia filed his Motion to Stay, seeking a two-month extension of the discovery period in this action because he "need[s] time to engage another competent law firm who can take the case." (Mot. To Stay at 2). He states that he "do[es] not think it would be wise to attend [his] deposition without an attorney." (Id. at 3).

On December 7, 2016, Mr. Torchia sent an email to the Commission stating that he would not appear for his scheduled deposition because he was not represented by counsel. The Commission informed Mr. Torchia that it was not releasing Mr. Torchia from the notice of deposition and that Mr. Torchia was required to attend. Mr. Torchia did not appear for his deposition. On December 13, 2016, the Commission sent an email to the Court requesting an order compelling Mr. Torchia to appear for a deposition. The discovery period in this action closes on December 30, 2016.

On December 13, 2016, the Court issued its Order [286] (“December 13th Order”) requiring Mr. Torchia to advise the Court, before 5:00 p.m. on December 15, 2016, whether he has retained counsel and, if he has, to have his counsel file a notice of appearance in this action. The Court sent the December 13th Order to Mr. Torchia by email. Mr. Torchia replied that his difficulty in retaining counsel “is that time is running out [in the discovery period] so they don’t want to get in along with the fees.” The Court stated to Mr. Torchia that, should counsel make an appearance on his behalf, the Court will entertain an extension of discovery to allow discovery the Court considers necessary for the permanent injunction hearing.

On December 15, 2016, Mr. Torchia advised the Court that he has retained counsel. The same day, Jason Doss with the Doss Firm in Marietta, Georgia, filed his notice of appearance on Mr. Torchia’s behalf. ([289]).

II. DISCUSSION

The Court requires the Commission and Mr. Torchia to submit to the Court, on or before December 21, 2016, a discovery plan detailing the remaining discovery the parties seek, including the dates by which each category of remaining discovery will be due. In view of Mr. Torchia’s retention of counsel, all remaining discovery is required to be completed on or before February 3, 2017.

Mr. Torchia shall make himself available to be deposed by the Commission on or before January 6, 2017.


III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that the Commission and Mr. Torchia shall, on or before December 21, 2016, submit to the Court a discovery plan detailing the remaining discovery the parties seek, including the dates by which each category of remaining discovery will be due. All remaining discovery is required to be completed on or before February 3, 2017. Mr. Torchia shall make himself available to be deposed by the Commission on or before January 6, 2017.

IT IS FURTHER ORDERED that Mr. Torchia's Motion to Stay Proceedings [272] is **DENIED**.

SO ORDERED this 15th day of December, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE